

REMARKS:

Claims 1-6, 8, 10-14, 17, 19, and 20 are currently pending in the present application. By this amendment, Claims 1-6, 8, 10, and 12-14 are hereby canceled.

Claims 1, 3, 5, 6, 11, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,788,372 (Jones). Claim 2 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones in view of U.S. Patent No. 5,535,861 (Young). Claim 4 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones in view of U.S. Patent App. 2006/0162778 (Nichols). Claims 6, 8, 10, 11, 13, 17, and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones in view of U.S. Patent No. 2,774,553 (Jensen). Claim 12 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones in view of Jensen, and further in view of U.S. Patent No. 5,535,861 (Young). Claim 14 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Jones in view of Jensen, and further in view of Nichols. Claim 5 is objected to under 37 C.F.R. § 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claims 8, 10, and 20 are rejected to under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

In view of the foregoing amendments and the following comments, allowance of all the claims pending in the application is respectfully requested.

Rejections Under 35 U.S.C. § 103(a):

Claims 1-6, 8, 10, and 12-14 are hereby canceled, thereby rendering the Examiner's rejections under 35 U.S.C. § 103(a) moot.

Independent Claims 11 and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,788,372 (Jones). The Applicant respectfully traverses this rejection for at least the following reasons.

With respect to independent Claims 11 and 20, the Examiner states that Jones discloses all features of the claimed damper and method for providing multiple spring rates.

Claims 11 and 20 are hereby amended to more particularly point out and distinctly claim the subject matter that the Applicant regards as the invention. Claim 11 is hereby amended to include the following features: (1) a first and a second elastomeric seal comprising a layer of elastomeric material and a layer of non-elastomeric material; (2) a first and a second passage extending through the length of the piston, the passages being in fluid communication with the opposing fluid chambers; (3) a rotary valve disposed within the piston and in fluid communication with the fluid passing through the primary passage; and (4) a switch operably associated with the rotary valve. The Applicant respectfully disagrees that Claims 11 and 20, as amended, are obvious over Jones in view of the cited references for at least the following reasons.

Figure 1 below shows the claimed damper, as illustrated in Figure 5 of the drawings. It should be noted that the rotary valve is disposed within the piston and is adapted to open and close the primary passage.

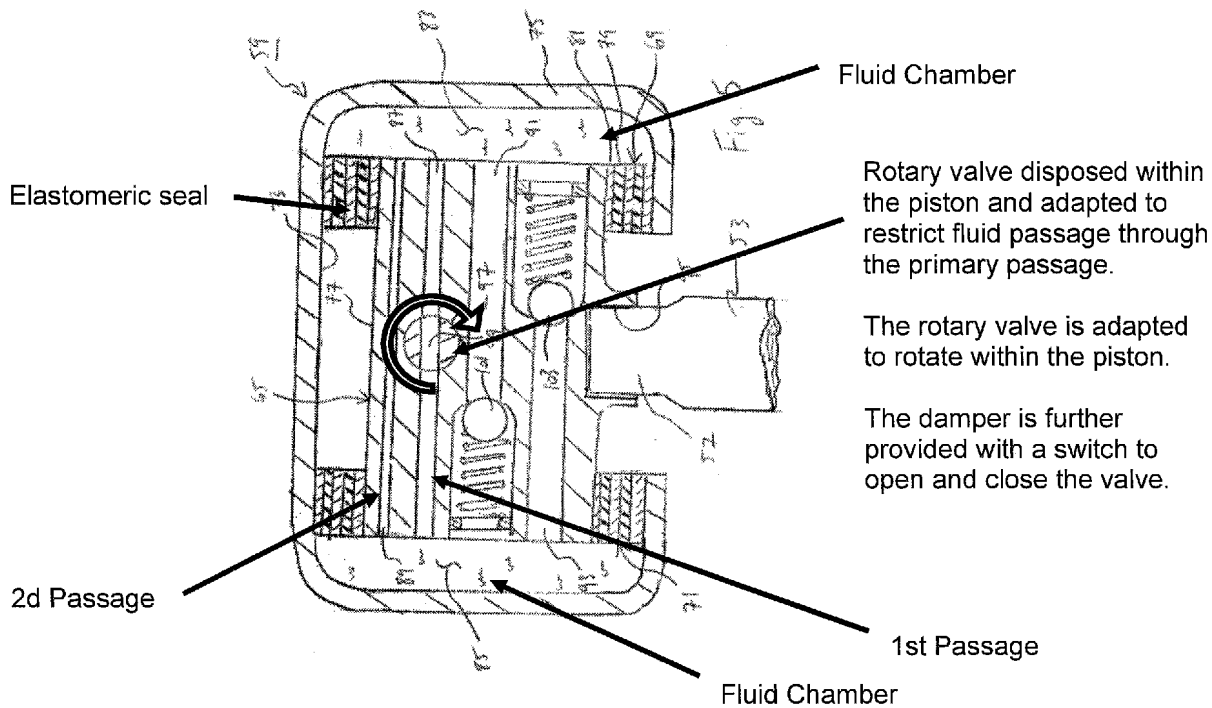


Figure 1: The claimed damper.

The Examiner uses Jones as the primary reference for disclosing the features of the claimed damper. Figure 2 below shows the Jones damper.

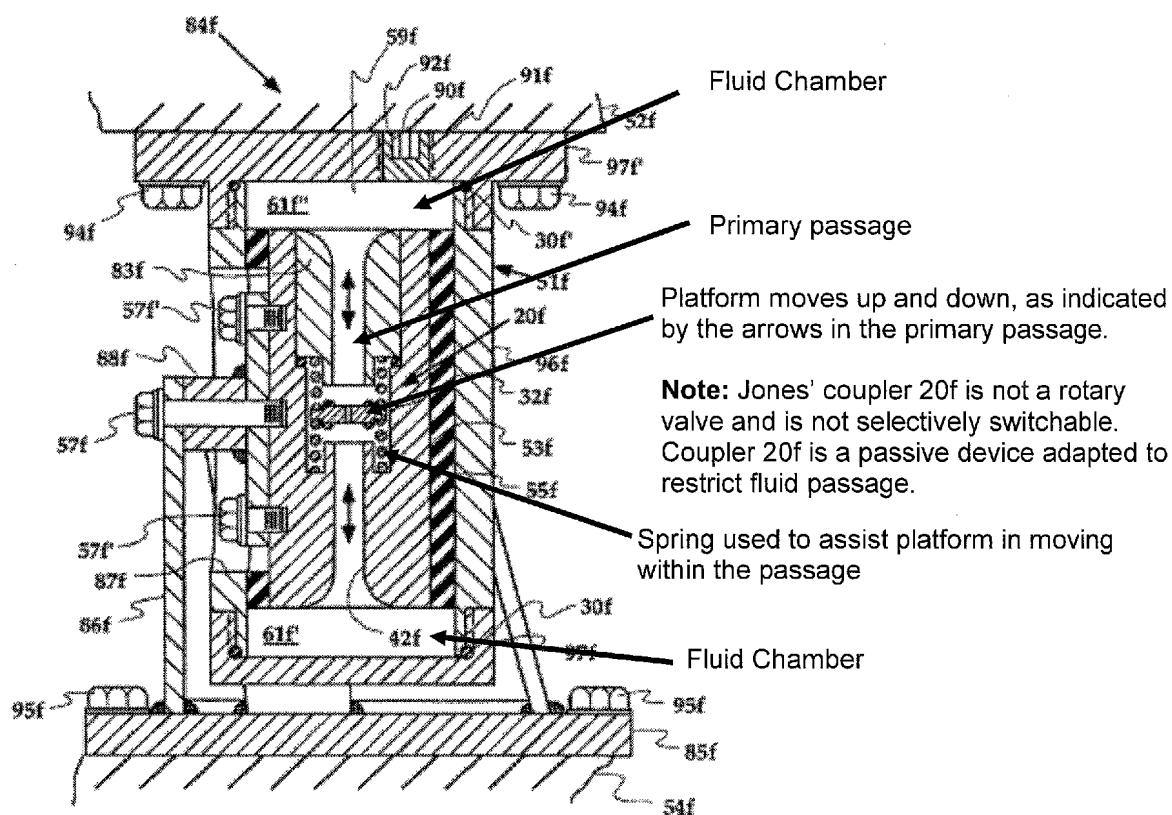


Figure 2: The Jones damper, as shown in Figure 4 of Jones.

Jones fails to disclose or teach the features: (1) the elastomeric seals having a layer of elastomeric material and a layer of rigid, non-elastomeric material; (2) a second passage extending the length of the piston; (3) a rotary valve disposed within the piston; and (4) a switch operably associated with the rotary valve. Jones fails to teaches the deficiencies found in Claims 11 and 20, as amended, specifically features (1)-(4).

With respect to feature (1), Jones fails to disclose elastomeric seals having a layer of elastomeric material and a layer of rigid, non-elastomeric material. The Examiner relies on Young to disclose this feature. Figure 2 below shows the Young piston with elastomeric seals.

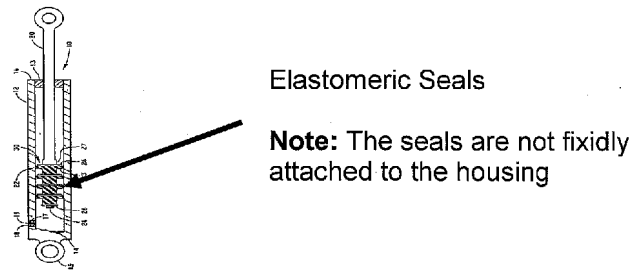


Figure 3: The Young piston, as shown in Figure 1 of Young.

Young discloses a piston having elastomeric seals; however, the seals are not fixidly attached to the housing, as shown in Figure 1 above. Young also fails to disclose features (2)-(4)

With respect to features (2)-(4), the Examiner relies on Jensen to teach these features. Figure 4 below shows the Jensen damper.

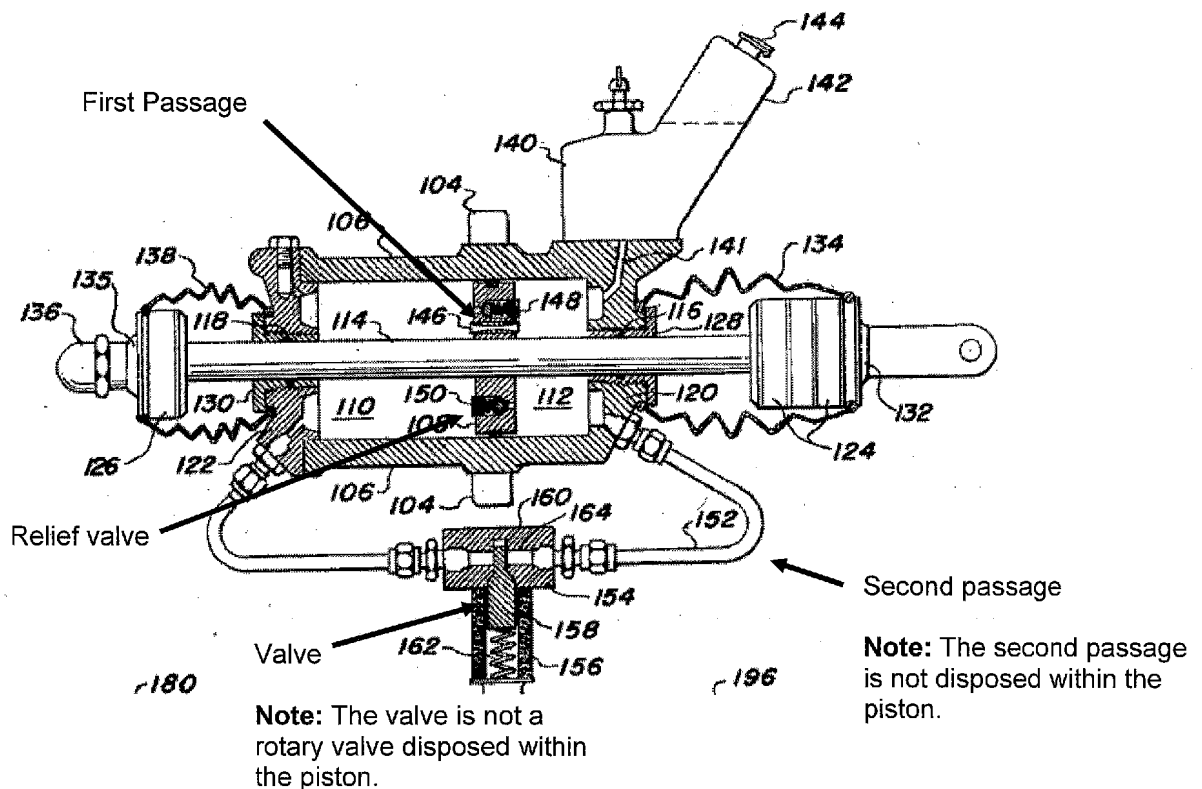


Figure 4: The Jensen damper, as shown in Figure 5 of Jones.

In comparison, the claimed damper includes a rotary valve disposed within the piston and a switch operably associated with the piston for actively opening and closing the fluid passage. Jensen teaches away from this feature. The Jensen second passage is positioned outside the piston. The Jensen valve is a spring actuated valve, not a rotary valve. And, the Jensen valve is not positioned within the piston.

It should be noted that Jensen does disclose relief valves disposed within the piston; however, the relief valves are pressure valves, and are adapted to only allow fluid passage therethrough to relieve pressure. Jensen fails to teach the deficiencies found in Claims 11 and 20, as amended, specifically features (1)-(4).

The Examiner has used U.S. Patent No. 5,439,082 (McKeown) to disclose the features of the claimed damper. Figure 5 below shows the McKeown isolator.

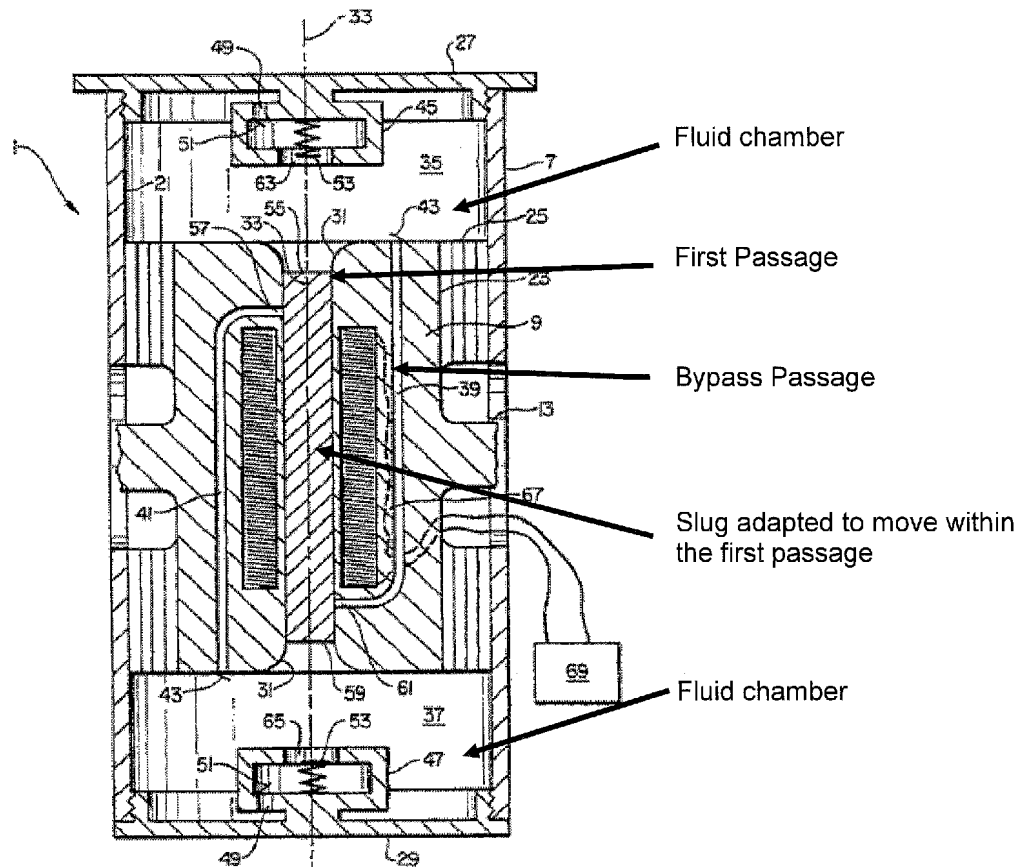


Figure 5: The McKeown isolator, as shown in Figure 2 of McKeown.

In comparison, the claimed damper includes a rotary valve disposed within the piston and a switch operably associated with the piston for actively opening and closing the fluid passage. McKeown fails to teach these features. The McKeown slug is not a rotary valve adapted to be selectively switchable for allowing fluid passage through the primary passage. Jensen fails to teach the deficiencies found in Claims 11 and 20, as amended, specifically features (1)-(4).

The Examiner relies on Nichols to disclose the claimed switch operably associated with the rotary valve, in particular, the Examiner relies on paragraph [0021] of Nichols as supportive evidence. Paragraph [0021] of Nichols states:

[0021] It should be appreciated that the drain valve 10 may have different configurations and different designs and that such designs are a part of the invention as they are provided for within the scope of the claims. For example, the present invention contemplates use of non-vortex valve bodies as well as bodies with impingement plates to reduce liquid carryover. Another example would be to replace the pressure actuated valve with a solenoid valve or other automatically controlled valve.

The Applicant respectfully disagrees that paragraph [0021] of Nichols discloses feature (4), namely, a switch operably associated with the rotary valve. Nichols merely states that alternative embodiments would replace the pressure actuated valve with a solenoid valve or other automatically controlled valve. This statement fails to disclose selectively switching a rotary valve with a switch.

For at least these reasons, the Applicant submits that features (2)-(4) are neither anticipated nor rendered obvious in view of the cited references. The Applicant submits that the remarks and amendments made herein regarding Claims 11 and 20 overcome the Examiner's rejections under 35 U.S.C. § 103(a), and that Claims 11 and 20, as amended, are in condition for allowance. Therefore, the Applicant respectfully requests that Claims 11 and 20 be allowed.

Claims 17 and 19 are dependent claims depend upon Claim 1. Because Claims 17 and 19 are dependent upon and further limit Claim 1, the Applicant submits that Claims 17 and 19 are also in condition for allowance. Therefore, the Applicant respectfully requests that Claims 17 and 19 be allowed.

Rejections Under 35 U.S.C. § 112, Second Paragraph:

Claims 8, 10, and 20 are rejected to under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Applicant regards as the invention.

Claims 8 and 10 are hereby canceled, thereby rendering the Examiner's rejections under 35 U.S.C. § 112, second paragraph moot.

Claim 20 is hereby amended by clarifying that the primary passage is not intended to be the same as the "the passage" earlier cited.

The Applicant submits that the amendments made herein regarding Claim 20 overcome the Examiner's rejections under 35 U.S.C. § 112, second paragraph, and that Claim 20, as amended, is in condition for allowance. Therefore, the Applicant respectfully requests that Claim 20 be allowed.

CONCLUSION:

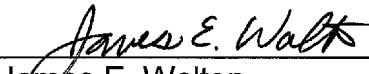
The Applicant submits that the foregoing remarks and amendments made with respect to Claims 11, 17, 19, and 20 traverse the Examiner's rejections under 35 U.S.C. §§ 103(a) and 112, second paragraph, and that Claims 11, 17, 19, and 20 are in condition for allowance. Therefore, the Applicant respectfully requests that Claims 11, 17, 19, and 20 be allowed.

The Applicant submits that the subject Application is now considered to be in condition for allowance, and an early reconsideration and issuance of a Notice of Allowance are earnestly solicited. The Examiner is invited to contact the undersigned at (817) 447-9955 with any questions, comments, or suggestions relating to the referenced patent Application.

This Amendment is being filed via the U.S. Patent and Trademark Office's EFS-Web electronic filing system. No fees are deemed to be necessary; however, the Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayments, to **Deposit Account No. 502806**.

Respectfully submitted,

2/22/11
Date



James E. Walton
Reg. No. 47,245
Law Offices of James E. Walton, P.L.L.C.
1169 N. Burleson Blvd., Suite 107-328
Burleson, Texas 76028
(817) 447-9955 (Voice)
(817) 447-9954 (Facsimile)
jim@waltonpllc.com

CUSTOMER NO. 38441

ATTORNEY FOR APPLICANT